



# The Court Legacy

Newsletter of The Historical Society for the  
United States District Court for the Eastern District of Michigan

Issue 1 - April 1993

## To Flesh Out the Bare Bones . . .

**W**hy bother trying to preserve the history of the federal courts in Michigan?

Courts, after all, produce more records than most institutions, and those records tell an important part of the evolution of the law and the system of justice. Shouldn't that suffice?

My background - with a Master's degree in history and more than three decades of experience as a journalist - has convinced me that the whole historical truth about almost anything is very elusive. As important as the formal record of the court system may be, it is incomplete without attention to the role of individual judges and other key players, without some sense of the long sweep of the history of the institution.

That's why, with all the things that nibble away at my days, I have chosen to spend some time as a member of the board of the District Court Historical Society. My participation is a small contribution to try to assure that the court's role in the history of Michigan and the nation is recorded, preserved and celebrated.

I'm particularly excited about the oral history projects undertaken with the guidance of Professor Philip Mason. Those interviews will provide an invaluable resource for historians and ultimately for citizens trying to understand the character of the men and women who have been the embodiment of the system of justice.

As a citizen, I'm anxious to see Professor Mason's distillation of his initial interviews. Knowing how much enthusiasm and competence he brings to this project, I'm sure they will deepen our understanding and heighten our appreciation of the history of the court. They will undoubtedly help many of you to see in more vivid detail what this

project can do to make the law and its processes come alive for future generations.

Over the years, I've often thought how wonderful it would have been, within my own family, to sit down with a tape recorder and an eye for history and start asking questions: What was it like for Uncle Joe to join the Navy at 17 during World War I? Did Grandmother really spend her honeymoon at the State Baptist Convention? Did my father really lie in his bed at night, able to hear the wolves howling at the edge of the woods behind the

farmhouse? What they could have told me would have added texture and character to what I learned about the dry bones of history.

That's what this historical society project is attempting to do: to flesh out the bare bones of the court records and rulings. I find it an important undertaking within the family and among the friends of

the court. This project can help to keep the past alive and full of meaning.

--Joe H. Stroud

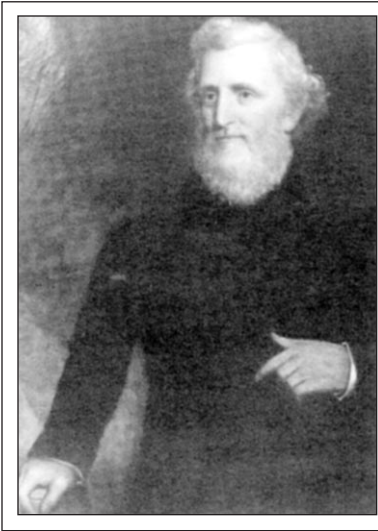
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### CALENDAR

Apr. 16-17 -- Local History Conference --  
Wayne State University  
Apr. 20 -- Historical Society Board Meeting  
May 18 -- " "  
June 15 -- " "  
July 20 -- " "  
Aug. 17 -- " "  
Sept. 1 -- Deadline for Oct. newsletter articles  
Sept. 21 -- Historical Society Board Meeting  
Oct. (TBA) -- Annual Meeting; Induction of new  
Board Members

## Ross Wilkins, Michigan's First U.S. District Judge



Only hours had elapsed, after Michigan became the 23rd State in the Union on January 26, 1837, when Congress established the U.S. District Court for Michigan. For the position of judge, President Andrew Jackson appointed Ross Wilkins, a young but experienced attorney and

judge of the Territorial Court of Michigan.

Although Wilkins was only thirty-eight years old at the time of his appointment, he was by no means the youngest federal appointee. Stevens Thomson Mason had been appointed Secretary of the Michigan Territory in 1831 at the age of nineteen, was elected governor in 1835, and served for five years as the "Boy governor" of the state.

Since the District Court was first established in Michigan, forty-nine judges have been appointed. They came from various regions of the country, different specialties of the law, and different political parties. Five of the judges have been women. All of them played vital roles in the history of the Court, but few have been as colorful and charismatic as Ross Wilkins.

Like most of the new government officials in Michigan, both appointed and elected, Ross Wilkins was not a native to the state. He was born in Pittsburgh, Pennsylvania, on February 18, 1799, into an influential Pennsylvanian family. His father served in the Revolutionary War and later as Quartermaster General in General Anthony Wayne's western army. His uncle was a U.S. Senator from Pennsylvania.

After graduation from Dickinson College in 1816, Ross Wilkins studied law and was admitted to the Allegheny County Bar. Soon after, at the age of 21, he was elected Prosecuting Attorney of Pittsburgh. With the aid of a close family friendship with President Andrew Jackson, he was later appointed to the three-member Michigan Territorial Supreme Court on June 17, 1832. For the duration

of his life he was intimately associated with the judicial history of Michigan.

As District Judge, Wilkins enjoyed, most of all, the criminal cases that came before the bench. He was noted for his fairness in dealing with the accused. One observer remarked that he was "careful and cautious in giving the prisoner at the Bar every possible protection and insuring a fair trial." At the same time, a contemporary noted that "no mail robber, timber thief, embezzler of post offices, or government defaulter could hope to escape indictment, trial and certain conviction" in his court. After 1842, the District Court had jurisdiction over admiralty cases, and the Court's agenda often included cases involving trade and travel on the lakes and rivers of Michigan. Several of Wilkins' major decisions were considered so significant and precedent-setting that they were reported in the Federal Register.

One of the most famous and highly publicized cases to come before Judge Wilkins involved proceedings against James Jesse Strang. After the murder of the Mormon founder, Joseph Smith, at Nauvoo, Illinois, in 1844, Strang split from Brigham Young and led a group of followers to Wisconsin and subsequently to Beaver Island in northern Lake Michigan. There he proclaimed himself "King" as "God's Viceroy on Earth." This action, along with the practice of polygamy, brought the Mormon colony in conflict with the Irish fishermen on the mainland opposite Beaver Island. There were numerous confrontations -- some violent -- which culminated in charges being brought against Strang and his followers in May 1851 by the U.S. Attorney in Detroit. The charges included counterfeiting, trespassing on public lands, stealing timber, and robbing the U.S. mail. Strang and the others were brought to Detroit for a trial before Judge Wilkins in June 1851.

The trial became a "cause celebre." Hundreds waited in line daily for seats in the courtroom. Newspaper reporters arrived from other cities to cover the trial. The Detroit press devoted several columns each day to the proceedings. More than 100 witnesses were called to testify against the Mormons, citing their strong opposition to polygamy and other Mormon religious beliefs. James Strang, an able attorney, defended himself, alleging a concerted campaign of persecution against his

followers and described himself as a "martyr to his religious convictions." Judge Wilkins was commended for his handling of the proceedings and was credited with influencing the jury's decision of acquittal after he gave a strong charge to the jury, cautioning them "against yielding to sectarian prejudice."

In the thirty-three years Wilkins served as judge, he established an excellent reputation among his colleagues in the legal profession and government leaders. One contemporary attorney described him as "quick in perception, instant in judgment, clear and lucid in reasoning, concise and precise in statement of facts." As an orator, Wilkins was without peer in nineteenth-century Detroit.

Another attorney described his courtroom habits. During the introductory statements presented in trial, the judge "would get up and go to the back of the Court and light an immense long pipe of tobacco and circle round and round and smoke away...." Returning to the bench and "fixing his eye to the speaker, he never moved, indeed he was lost to everything but the cause."

He also demonstrated a capacity to adjust to the limited facilities of his courtroom. The new federal building built in 1855 on the northwest corner of Griswold and Larned Streets was a great improvement over the temporary rented buildings in which the District Court was first housed, but it left much to be desired. It had no central heating or

furnace, only four open grate fireplaces, which, although "roaring with burning logs and coal" during the frigid days of winter, left the courtroom "uncomfortably cold." Judge Wilkins solved the heating problem by bringing with him his "massive Newfoundland dog" and "permitted him to curl up on his feet to keep them warm."

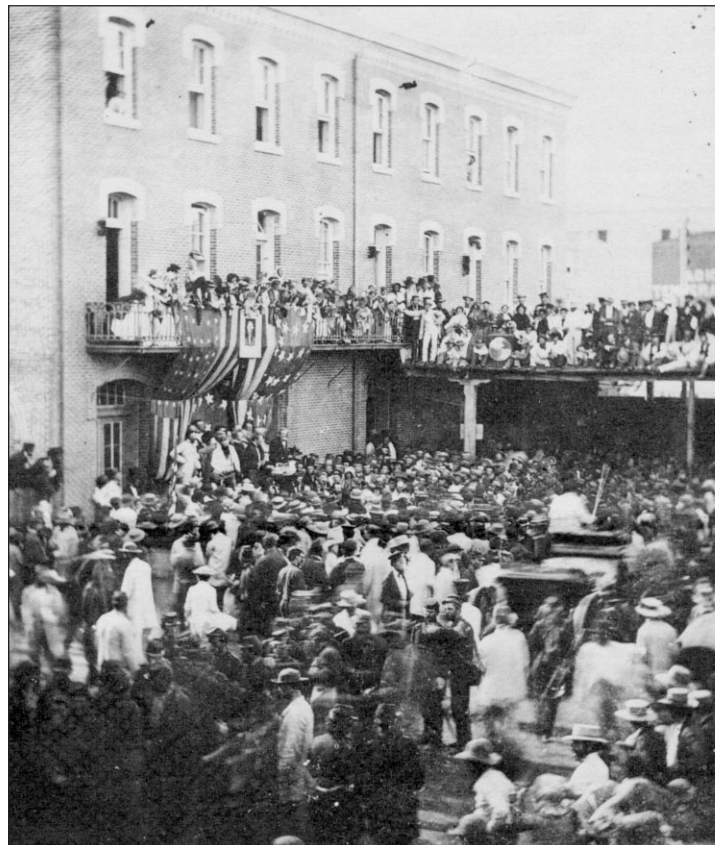
Judge Wilkins not only won a strong reputation as a judicial leader, he was recognized

also for his community activities. As a devoted father to his four children, he spent much time with them. As a lay Methodist preacher, he often gave sermons at local churches. He served as a member of the Board of Regents of the University of Michigan from 1837 to 1842. Wilkins was also a temperance leader and active in the Washingtonian Movement of the 1840s.

On occasion he expressed his strong views on the evils of drink from the bench. In one trial he commented on the appearance of two of the witnesses, brothers in their seventies. After complimenting them on their excellent physical shape, he said he was willing to stake his reputation on the fact that they were "teetotallers." The first brother agreed, stating clearly that he had

"never had a drop of intoxicating liquor in his life." The other witness, described as having a "twinkle in his eye and a half-suppressed smile on his face," replied, "Your honor, I have never gone to bed one night sober since I was twenty-five years old." The courtroom broke into laughter, except, that is, Judge Wilkins. He did not give any temperance lectures in the courtroom for months.

Contemporary records also tell us about the striking appearance of Judge Wilkins. One observer



Judge Ross Wilkins and Michigan statesman Lewis Cass welcoming returning Civil War soldiers at the Detroit and Milwaukee Railroad Depot in the City of Detroit in August, 1861. (Courtesy Burton Historical Collection)



described him as "about five feet, ten inches tall . . . full and round, well knit, lithe and graceful, and clad on the bench in a velveteen suit." Another said, "he might have been taken for a well-to-do farmer or a dashing Kentucky hunter." A colleague wrote that he had "a splendid majestic head, an eye like Mars, full of brilliancy and as restless as the eagles, with long and gracefully curling hair, pure white teeth, his necktie a wisp of rope and a large flowing collar." To some Detroiters he resembled the English poet, Lord Byron.

When off the bench, Wilkins dropped his courtly demeanor. One friend remarked that he

"exhibited an utter disregard for all the forms, shows and modes of judicial dignity, and as a boon companion, a wit and a 'fellow of infinite jest of most excellent fancy'."

Judge Wilkins resigned from the bench in December 1869 at the age of seventy. He had served thirty-two years as the single District Judge during a period which witnessed Michigan's rapid growth from a sleepy frontier village to a major mercantile and industrial center. He died in his home in 1872 at the age of 72.

--Philip Mason  
Distinguished Professor of History  
Wayne State University

## *What's Happening at the Historical Society*

**I**t has been a busy first year! Here is a brief synopsis of some of the projects and activities of the Society.

### Oral History Project

Dr. Philip Mason has completed interviews of Senior Judges John Feikens, James Churchill and James Harvey and is presently interviewing Senior Judge Horace Gilmore. The taped material is now being edited, typed and put into final form for presentation to suitable repositories. Future oral history subjects will include attorneys and court personnel in addition to judicial officers.

### Newsletter

This is the first edition of the newsletter under the guidance of Trustee Joe Stoud. The next issue is scheduled to appear in October of this year. Several members have indicated interest in writing for the newsletter and members Peggy Miller, John Artz and Megan Brennan are already actively engaged in producing articles for upcoming issues. Suggestions for articles and comments on the newsletter are welcomed and may be sent to David R. Sherwood, 133 U.S. Courthouse, 231 W. Lafayette, Detroit, MI 48226 or feel free to call Judy Christie at (313) 226-7802.

### Membership

The Board of Trustees set a goal of 300 members by January 1994; as of April 1, the Society had a total of 105 members. If you would like additional brochures to distribute, please call Judy Christie at (313) 226-7802. We need your help to reach our goal.

### Nominations for Board of Trustees

The Nominations Committee, chaired by Trustee Otis Smith, is seeking nominations for the five vacancies on the Board of Trustees. Elections will be held at the annual meeting in October. If you are interested in submitting a name, please write Mr. Otis Smith at 1300 First National Building, Detroit, MI 48226.

### Fund Development

Eight law firms have generously donated a total of \$14,000 to assist the Society in its initial year of operation.

The first \$25,000 of the Cohn Fund's Challenge Grant was released to the Society when the Michigan State Bar Foundation gave a grant of \$10,000. The Society still needs to raise an additional \$13,000 to receive the remainder of the Cohn Fund Challenge Grant.

### Other Projects

An exhibition of historic photographs of the construction of the courthouses in Detroit and Port Huron is in the early planning stages.

Member Philip Kessler has agreed to work with Alison Dawe who has written a manuscript on the architecture and history of the Chief Judge's courtroom. This magnificent courtroom was rescued from the old victorian courthouse and restored in the present courthouse when it was constructed in the early 1930's. The Society will sponsor the final editing and publication of the material in a pamphlet format. It will be sent to members and handed out to visitors.